



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,978	11/25/2003	Alexander Bekker	PREDYN-44675	9035

26252 7590 03/15/2007
KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

EXAMINER

HOGE, GARY CHAPMAN

ART UNIT	PAPER NUMBER
----------	--------------

3611

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/722,978	BEKKER, ALEXANDER	
	Examiner	Art Unit	
	Gary C. Hoge	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14-34, 37-49, 52-61 and 87-94 is/are pending in the application.
- 4a) Of the above claim(s) 24-27, 38-41 and 59-61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14-23, 28-34, 37, 42-49, 52-58 and 87-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 24-27, 38-41 and 59-61 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 15, 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 11, 15, 16, 20, 21, 28-32, 37, 87-91 and 94 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott (3,965,589) in view of Tinklenberg et al. (3,965,589).

See Fig. 7. McDermott disclose an identification tag for attachment to the wrist of a human (the age of the wearer is irrelevant to the patentability of the tag), an elongated wristband **22**, and related fastening means for configuring and retaining the wristband in a closed loop shape of selected circumferential size wrapped about a portion of the specific wearer or object.. However, the tag disclosed by McDermott includes only a single slot. Tinklenberg discloses an identification tag system comprising a generally rectangular identification tag having a long dimension and a short dimension, the tag including a pair of slots **13**, **14** therethrough and means for receiving information associated with a specific wearer or object. The identification tag **12** disclosed by Tinklenberg is mounted onto the exterior of the wristband and has a size and shape

Art Unit: 3611

to extend beyond the width of the wristband. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the single-slot arrangement disclosed by McDermott with a double-slot arrangement, as taught by Tinklenberg, in order to achieve a more secure attachment of the tag to the wristband. Further, it is not known whether the tag and wristband disclosed by McDermott are elastomeric. Because it is within the level of ordinary skill of a worker in the art to select from among known materials on the basis of their suitability for the fabrication of a given device, and since a person having ordinary skill in the art would know that an elastomer would be suitable for the fabrication of a tag and a wristband, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the tag and wristband disclosed by McDermott from an elastomer as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

Regarding claims 5-7, 32 and 91, see Fig. 1 of Tinklenberg. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tag disclosed by McDermott with machine-readable indicia in addition to the human-readable indicia, as taught by Tinklenberg, in order to allow the tag to be read by a machine.

Regarding claim 20, it would have been obvious to include a plurality of tags on the wristband disclosed by McDermott because it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 21, see column 7, lines 10-24 of McDermott.

Art Unit: 3611

4. Claims 8-10, 33, 34, 92 and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott (3,965,589) in view of Tinklenberg et al. (3,965,589), as applied to claims 2 and 1, respectively, above, and further in view of Grose et al. (2002/0054940).

McDermott discloses the invention substantially as claimed, as set forth above. However, McDermott only discloses providing human-readable indicia. Grose teaches that it was known in the art to provide an identification tag with both human-readable indicia and an RFID chip. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tag disclosed by McDermott with an RFID chip, as taught by Grose, in order to allow the tag to be read by a machine.

Regarding claims 10, 34 and 93, Grose teaches that “the RFID tag 12 may be of any variety known to those skilled in the art, and is sized such that it may be embedded in the band 10” (paragraph [0039]).

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott (3,965,589) in view of Tinklenberg et al. (3,965,589) as applied to claim 1, above, and further in view of Castagna (5,503,114).

McDermott discloses the invention substantially as claimed, as set forth above. However, the tag is oriented with the long dimension thereof extending perpendicular to the long dimension of the wristband. Castagna teaches that it was known in the art to orient such a tag with its long dimension aligned with the long dimension of the wristband. It would have been obvious to one having ordinary skill in the art at the time the invention was made to align the tag disclosed by McDermott with the long dimension of the wristband, as taught by Castagna, in order to make a more compact construction.

Art Unit: 3611

6. Claims 17-19, 22, 23, 42-46, 49 and 52-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott (3,965,589) in view of Tinklenberg et al. (3,965,589) as applied to claim 1, above, and further in view of Duncan (6,058,637).

McDermott discloses the invention substantially as claimed, as set forth above. However, it is not known how the tags are formed. Duncan teaches that it was known in the art to form identification tags such that a plurality of them are detachably interconnected to each other, and to feed those tags through a printer (i.e., a processor station), to print information thereon. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of the tags disclosed by McDermott, and to attach them detachably together, as taught by Duncan, in order to enable efficient processing of multiple tags through a printer.

Regarding claims 19 and 56, a roll is a very long, very narrow sheet.

Regarding claims 23 and 58, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make some of the tags larger than the others because such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 46, see Fig. 1 of Tinklenberg. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tag disclosed by McDermott with machine-readable indicia in addition to the human-readable indicia, as taught by Tinklenberg, in order to allow the tag to be read by a machine.

Art Unit: 3611

7. Claim 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott (3,965,589) in view of Tinklenberg et al. (3,965,589) and Duncan (6,058,637), as applied to claim 42, above, and further in view of Grose et al. (2002/0054940).

McDermott discloses the invention substantially as claimed, as set forth above. However, McDermott only discloses providing human-readable indicia. Grose teaches that it was known in the art to provide an identification tag with both human-readable indicia and an RFID chip. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tag disclosed by McDermott with an RFID chip, as taught by Grose, in order to allow the tag to be read by a machine.

Regarding claim 48, Grose teaches that “the RFID tag 12 may be of any variety known to those skilled in the art, and is sized such that it may be embedded in the band 10” (paragraph [0039]).

Regarding claim 54, see column 7, lines 10-24 of McDermott.

Response to Arguments

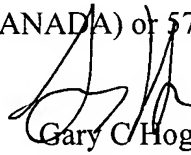
8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gary C Hoge
Primary Examiner
Art Unit 3611

gch